

## VII: LABOR STANDARDS

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**Note:** All labor standards documents may be faxed to the department.

### A. INTRODUCTION

Federal law standards (also known as "Davis-Bacon") probably apply to your project. Commerce will make this determination when your project representative is drafting the contract. If federal labor standards apply, then federal wage rates will have to be paid to employees.

Any project \$180,000 or greater, prevailing wages apply. When including wages, both federal (Davis-Bacon) and State (Prevailing Wages), you would pay the higher wage rate for that job classification.

### B. RELEVANT LAWS

1. The Davis-Bacon Act. This act requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the U.S. Department of Labor (USDOL) and are issued in the form of Federal wage decisions for each classification of work to be performed in the area.

Violation of the Davis-Bacon Act makes the contractor liable for unpaid wages and may result in suspension of payments, contract termination, and suspension or debarment of the contractor from participation in federally funded projects.

2. The Copeland "Anti-Kickback" Act. This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court processes. The act also requires contractors to submit weekly payroll records and Statements of Compliance to the contracting agency. Regulations, Part 3, requires contractors and subcontractors on Davis-Bacon covered construction project to submit each week a "statement of compliance" certifying compliance with the Davis-Bacon requirements. This "statement of compliance" is usually referred to as the certified payroll. This Act applies to all contracts covered by Davis-Bacon.

Violation of the Copeland Act is a felony and may result in termination of the contract or criminal prosecution by the U.S. Government, punishable by a fine of \$5,000, five years in prison, or both.

3. The Contract Work Hours and Safety Standards Act (CWHSSA). This Act requires that workers receive "overtime" pay at a rate of one and one-half times their regular hourly pay after they have worked 40 hours in one week on the federally funded project. The CWHSSA does not apply to contracts of \$100,000 or less; however, the Fair Labor Standards Act will apply and overtime provisions are applicable to all contracts covered by Davis-Bacon.

Violation of the CWHSSA makes the contractor liable for unpaid wages, liquidated damages of \$10 per employee per day of violation, and, in cases of intentional violation, a fine of \$1,000 and/or six months imprisonment for each offense. Violations may also result in termination of the contract.

## C. APPLICABILITY

See *Attachment 1: Davis-Bacon Coverage Chart* and *Attachment 2: Davis-Bacon and Related Acts (DBRA) Interpretations and Applications*.

1. Labor standards apply to all contracts for construction, alteration, or repair of a public building or public work, except as noted below.
2. Labor standards apply to all building or construction financed in whole or in part from federal funds or in accordance with guarantees of a federal agency, except as noted below.
3. Exceptions
  - a. Public works constructed by your own employees, commonly called "force account" work. A letter stating that your project will be completed using your Force Account should be submitted to the Commerce Labor Standards Specialist. (See Attachment 19).  
**NOTE:** There is no such thing as **private** "force account" work.
  - b. Residential rehabilitation in structures with fewer than eight units.
  - c. Contract(s) that are part of a project of less than \$2,000 value.
  - d. Construction activities assisted solely by means of loans guaranteed with interest-bearing collateral accounts, where 1) the interest rate is standard and customary rate on demand accounts; 2) the account is subject to standard and customary terms and conditions for collateral accounts; and 3) there is no "substantial likelihood" that the guarantee will be used.
  - e. Economic development projects where federal funds are used only for nonconstruction activities such as acquisition; machinery and equipment purchase (not including installation); stock (equity) purchase; and operating capital loans where such funds cannot be used for construction.

## D. KEY REGULATIONS AND REQUIREMENTS

### 1. Labor Standards Officer

**REQUIREMENT:** The grantee must name a Labor Standards Officer prior to, or at the time of requesting a wage decision. The Block Grant Administrator must act as Labor Standards Officer unless a different person is appointed.

**PROCEDURE:** Appoint a labor standards officer to administer all matters relating to labor standards. Complete *Attachment 3: Labor Standards Officer Designee* and send a copy to the Commerce Labor Standards Specialist.

### 2. Securing Wage Decision

**REQUIREMENT:** The Labor Standards Officer must secure the prevailing Davis-Bacon wage decision(s) for use in the project(s).

**PROCEDURE:** **Prior to advertising for bids**, submit a *Request for Wage Decision and Response to Request, Form 308 (Attachment 4)* to Commerce's Labor Standards Specialist. Be sure to **complete number 15 of Form 308 (Attachment 4) in its entirety. Specify Budget Line Items, Phases of the Project, and Percent of Total Construction Cost**, which includes grant plus match in construction line items only.

**OPTIONAL:** If you have conducted a survey of wages paid for similar work in your community, this can be submitted as well, using *Contractor's Report of Construction Wage*

*Rates, Form WD10 (Attachment 5).* Contract Commerce's Labor Standards Specialist for information on how to conduct and submit a survey.

Davis Bacon wage rates are available on-line. Following are the instructions for an on-line search:

- a. [www.wdol.gov](http://www.wdol.gov)
- b. Select "Selecting DBA WDs, under Davis-Bacon Act"
- c. Select "Wisconsin" under "State"
- d. Select the County the project is located in
- e. Click on "Search" (this will give you **all** the wage decisions for that county)
- f. Select the decision(s) that is appropriate for the work being completed  
(Remember that you need at least 20 percent justification in work being performed in order to assign two wage decisions.)

Print your wage decision(s) and include it with your bid documentations. Fax to Commerce's Labor Standards Specialist your Form 308 (Attachment 4) with the wage information completed, along with the assigned wage rates. (Contact the Commerce Labor Standards Specialist for assurance of the correct wage decision(s).)

**Ten (10) days before the bid opening date**, you shall make sure the wage decision(s) is/are still in effect. If they have been replaced or modified, you will need to notify the prospective bidders of the changes so they can modify their bids, (See *Attachment 6: Ten Day Wage Decision Status Check*). **If you fail to do this, the wrong wage decision(s) might be used and your community will ultimately be liable for any differences in the cost.**

Because wage rates change every Friday at 10:00 a.m. (if they are to be changed), you must check your wage rates on-line prior to the bid opening (even if it is less than ten days prior to the bid opening). If the wage decision has changed, you **are** responsible for using the current wage rate(s) for the project being bid on. If you fail to use the most current wage rates, you **will** be responsible for **all** back wages to employees.

### 3. Additional Classifications

Additional classifications will be needed any time there is a category of worker on the job that doesn't fit any of the classifications listed in the wage decision. When requesting approval of additional classifications, send a letter requesting additional classification(s) to Commerce's Labor Standards Specialist (see *Attachment 7: Request For Additional Classification*) including the name of the classification and the wages and fringe benefits currently being paid. Attach a copy of the wage determination to expedite the process. This information will be forwarded to the USDOL for review and response. **USDOL will not review or respond to any additional classification requests prior to awarding the contract(s).**

### 4. The Bidding Process

**REQUIREMENT: You must include the wage decision(s), related provisions, equal opportunity language, and contractor clearance language in your bid documents.**

PROCEDURE: In advertising for bidders, include a notice that Davis-Bacon wage rates apply to the project (see *Attachment 8: Advertisement For Bids*). The following must be included in the bid document package.

#### **For all bid packages:**

- Davis-Bacon wage decisions (see *Attachment 4 for request instructions and form*). Inclusion by reference only is **NOT** acceptable.

- Federal Labor Standards Provisions (HUD-4010) (see *Attachment 9*). Inclusion by reference only is **NOT** acceptable.
- A copy of Attachment 22, “Take a Look at These Websites.”

**For all projects estimated to exceed \$100,000:**

- *Attachment 2: Equal Opportunity Clause For Grantee Procurement Construction Contracts Above \$10,000 (EO 11246)* in **Chapter 5: Equal Opportunity**.

**For CDBG-PF grants exceeding \$200,000 and all construction contracts estimated to exceed \$100,000:**

- *Attachment 6: Section 3 Contract Language Requirements* in **Chapter 5: Equal Opportunity**.

If you (the grantee) open a bid and wait more than 90 days to award the construction contract, check with Commerce’s Labor Standards Specialist to see if the wage decision(s) have been modified or superseded. If it has, you must use the modified wage decision(s) in your construction project.

You **must** keep a copy of the bid advertisement and the bid documents package in the Labor Standards file.

5. Contractor Clearance

**REQUIREMENT: Contractors must verify that the successful bidders and all subcontractors are eligible to work on federally funded contracts.**

PROCEDURE: Because of past practices, certain contractors may have been debarred. Suspended or otherwise made ineligible to work on federal contracts.

Included as part of your contract shall be the wage decision number and the Federal Labor Standards Provisions (HUD 4010) that contain the contractor clearance language. When a contractor enters into federally assisted contracts, they certify their eligibility and those they will not employ ineligible subcontractors to perform the work.

Correction of any infractions of the aforesaid conditions, including infractions by any of the contractor’s subs is the contractor’s responsibility.

Option 1: Following are instructions to conduct the search on your own.

- Address: <http://www.dwd.state.wi.us>
- Under DWD Programs: Select “Wage and Hour Labor Standards”
- Under Programs: Select “Prevailing Wage Rate”
- Select “Additional Prevailing Wage Rate Information”
- Under References” Select “Consolidated Listing of Debarred Contractors”
- The names are listed in alphabetical order. If you have concerns regarding a contractor, prime, or sub, this document will provide you with a list of Debarred and Suspended Contractors. E-mail your list to the Commerce Labor Standards Specialist. It will then be approved and e-mailed back to you.

NOTE: The list is continually updated. Do not print it or save it to disk.

Option 2: For communities that are unable to view the debarred list, e-mail a list of potential contractors to Commerce’s Labor Standards Specialist at [Darlene.Moss@Wisconsin.gov](mailto:Darlene.Moss@Wisconsin.gov), or fax at 608/266-8969 to verify contractor eligibility.

6. The Contracting Process

**REQUIREMENT: You must include the wage decision(s), related provisions, equal opportunity language, and contractor clearance language in all contracts.**

**For all contracts:**

- Davis-Bacon wage rates (see *Attachment 4 for request instructions and form*). Inclusion by reference only is **NOT** acceptable.
- Federal Labor Standards Provisions (HUD-4010) (see *Attachment 9*). Inclusion by reference only is **NOT** acceptable.
- *Attachment 20: Lobbying Certification For Contracts, Grants, Loans & Cooperative Agreements*.

**For contracts exceeding \$10,000:**

- *Attachment 2: Equal Opportunity Clause For Grantee Procurement of Construction Contracts Above \$10,000 (EO 11246) in Chapter 5: Equal Opportunity.*
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**For CDBG-PF grants exceeding \$200,000 and all construction contracts exceeding \$100,000:**

- *Attachment 6: Section 3 Contract Language Requirements in Chapter 5: Equal Opportunity.*

**Provide the following to all prime contractors** to include in subcontractors bid documents and contracts exceeding \$10,000:

- *Attachment 3: Affirmative Action Requirement for All Federally Assisted Construction Contracts (EO 11246) in Chapter 5: Equal Opportunity.*
- *Attachment 5: Goals for Women and Minority Utilization in Construction in Chapter 5: Equal Opportunity.*
- *Attachment 4: Federal Equal Opportunity Construction Contract Specification (EO 11246) in Chapter 5: Equal Opportunity.*

ALL SUBCONTRACTS MUST BE IN WRITING and must contain all items listed above (many communities simply write the contractor's name, bid price, and so forth into the black spaces in a copy of the bid package). Inclusion of the wage decision and regulations by reference is **NOT** acceptable.

A copy of the contract must be kept in the labor standards files.

**Note: If you fail to get a wage decision, or use the wrong one:** Workers on federally-funded projects must receive the federally-determined wages. If you fail to include the correct wage decision and regulations in the contract, you must get the correct wage decision(s) and advise the contractors they must pay those wage rates retroactive to the beginning of the project. **Your community must reimburse the contractor for the added cost resulting from the payment of the federally determined wages.**

**When the contract is awarded, notify your Project Representative of the name and address of the prime contractor(s) and all subcontractors** (see *Attachment 10: Notice of Contractor Award*).

## 7. Preconstruction Conference

You are strongly encouraged to hold a preconstruction conference to ensure that all contractors understand the applicable wage decision(s) and requirements. Grantees working with contractors already familiar with Davis-Bacon requirements and have a record clear of complaints do not have to hold a preconstruction conference. If the contractor has worked on Davis-Bacon related projects and you are confident that she/he understands the Federal Labor Standards Provisions (HUD-4010), you can abbreviate the discussion of Davis-Bacon and Related Acts.

### PROCEDURE:

- a. Hold a preconstruction conference with the prime contractor and all subcontractors. The conference should cover the items listed in *Attachment 11: Preconstruction Conference – Items to be Discussed*. Also provide contractors with a copy of *Attachment 12: Preconstruction Checklist for Contractors*.
- b. Keep a record of the preconstruction conference proceedings and place a copy in the labor standards files (see *Attachment 13: Preconstruction Report Format*).

## 8. Compliance Monitoring

**REQUIREMENT: The grantee’s Labor Standards Officer must monitor the performance of the contractors in complying with the wage rates and other requirements.**

### PROCEDURE:

- a. **Make sure that each contractor and subcontractor submits, on a weekly basis, payroll records and statements of compliance** as required by the law, and that these documents contain all the required information (see *Attachment 14 and 15 for the forms and instructions*). Payrolls must be numbered sequentially from **first to final** and must be submitted within several days after the end of the pay period. Identify the first and final payrolls by the words “First” and “Final.” All payrolls must be signed by a principal of the firm or by an authorized agent. No payroll need be submitted for weeks when no work was done, but the entire period between start and completion of construction must be accounted for by **either** a payroll or a **“no work” letter**.
- b. **Review the payrolls weekly** to make sure that at least the minimum **wages and fringe benefits** as specified in the wage decision are paid to each employee and that any overtime worked is paid at the overtime rate. Fringe benefits include health insurance, retirement, life insurance, vacation, and some contributions to training funds. Fringe benefits **do not include** employer payments or contributions required by other Federal, State, or local laws, such as the employer’s contribution to Social Security or some disability insurance payments.
- c. **Review the payrolls weekly** to make sure that no **deductions** are made from any employee’s pay other than those permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to “kick-back” any of their earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings account, **and any other legally-permissible deduction authorized by the employee in writing**. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.
- d. **Review the payrolls weekly** to make sure that **employee classifications** conform to the wage decision and rates. If no applicable classification is listed in the wage decision

for an employee, submit *Attachment 7: Request For Additional Classification And Wage* to Commerce's Labor Standards Specialist.

- e. Apprentices and trainees may be paid less than the full journeyman rate only if they are registered in bona fide programs approved by and registered with the Employment and Training Administration of the USDOL. **Make sure all necessary apprenticeship indentured papers and training certifications have been filed** for employees on the job, and that the documents are valid. Make sure the ratio of apprentices to journeyman on the job site does not exceed the ratio specified in the program, and that the apprentice is receiving the pay specified for his/her level of progress as an apprentice (usually expressed as a percentage of the journeyman rate for the craft). Apprentices and trainees must receive the full level of fringe benefits unless the apprenticeship or training agreement specifies a lesser amount of benefits. Job Corps trainees are entitled to full wages for the work they perform. The USDOL does not recognize Job Corps as an in-depth training program.

A “**probationary apprentice**” can be paid as an apprentice if the Bureau of Apprenticeship and Training (BAT) or a BAT – recognized State Apprenticeship Agency (SAC) has certified that the person is eligible for probationary employment as an apprentice. A “**pre-apprentice**,” that is, someone who is not registered in a program and who hasn't been BAT-or SAC-certified for probationary apprenticeship, is **not** considered to be an “apprentice” and must be paid the full journeyman's rate on the wage decision for the classification of work they perform. **Obtain a copy of the apprenticeship-indentured papers from the approved program for your grant files.**

The Davis-Bacon statutes specify that if a contractor violates **any** of the provisions, then the person considered to be an apprentice **must** receive the full amount of the applicable prevailing wage rate for the classification of work performed.

- f. **Interview workers on the job** (use *Attachment 16: Employee Interview*) to determine if the wages paid and/or the classification reported by the contractor are correct and correspond to the payrolls submitted. Employees should be encouraged to produce pay stubs or pay envelopes that document the wages received. Do this in such a way as not to interfere with the conduct of the work and so as to provide reasonable privacy. **At least one interview for each classification of worker on the job is required for each contractor and contact.** More than one is desirable as assurance that the requirements continue to be met. For persons classified as apprentices or trainees, get a detailed statement of duties and tools used. Compare the interview data with the corresponding payrolls to identify any discrepancies.
- g. **Check the work site** to make sure that the required wage rates and other required posters are posted in a clearly visible location.
- h. Keep the site investigation report, payroll sheets, certifications, and employee interviews in the labor standards file.

## 9. Compliance Enforcement

**REQUIREMENT: You must take the necessary steps to enforce the requirements when a contractor or subcontractor has not paid the minimum Davis-Bacon wage and benefits or has violated other requirements.**

**PROCEDURE:** Violations of Labor Standards requirements may be found as a result of worker complaints or through routine monitoring of payroll reports and employee interviews. When violations are found, the grantee must follow the procedures set up by the USDOL, below:

- a. Where the total underpayment is \$1,000 or less and where there is not reason to believe that the violation is/was deliberate:
  - i. **Make sure that the unpaid wages are paid.** The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payroll #1 through #6; or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due and their work classification; the total number of work hours involved (daily hours are usually not applicable for restitution); the adjustment wage rate (the difference between the required wage rate and wage rate paid); the gross amount of restitution due; deductions; and the net amount to be paid. Have the affected employee(s) sign the correction payroll and submit copy(s) of the cancelled check(s). A signed Statement of Compliance also must be attached to the correction Certified Payroll.
  - ii. **If the violation involved the overtime provisions** of the Contract Work Hours and Safety Standards Act, notify the **Commerce's Labor Standards Specialist** and the contractor of the estimated penalty to be assessed (\$10 per employee per day that overtime is earned but not paid). Submit the copies of payrolls with the violations and a summary of your investigation to Commerce's Labor Standards Specialist. He/she will forward them to HUD, which will calculate the exact penalty to be assessed and collect it from the contractor. Be sure to **withhold the estimated penalty amount from the contractor** until HUD has been paid or the contractor has received an answer to any appeal.
- b. Where the underpayment is \$1,000 or more or where there is reason to believe that the violations are deliberate, **investigate as thoroughly as possible, and file Attachment 17: Section 5.7 Enforcement Report with Commerce's Labor Standards Specialist.** The report will be forwarded to HUD and the USDOL for the necessary follow-up action.
- c. Documentation of such violations is extremely important. All enforcement actions shall be carried out in writing and have the following information in the file:
  - i. A description of the violation.
  - ii. The sources of information about the violation. Complaints and other statements from employees should be in writing, and signed.
  - iii. The computation of the back wages due each employee.
  - iv. The computation of the liquidated damages, if any.
  - v. Actions taken by the contractor to correct the violation, if any.
  - vi. Copies of supplemental payrolls and/or canceled checks, if any.
- d. Submit a *Semiannual Labor Standards Enforcement Report* (see Attachment 21) The USDOL requires Federal agencies administering programs subject to Davis-Bacon and Related Act and CWHSSA labor standards to furnish a Semiannual Labor Standards Enforcement Report. All Semiannual Labor Standards Enforcement Report are **due to Commerce on or before April 7 and October 7 for each contract year** (see *Chapter 8*). It is very important that Commerce receive these reports in a timely fashion so that we can forward them to the USDOL on or before April 15 and October 15 for each year.
- e. If applicable, submit a *Section 5.7 Enforcement Report* (see Attachment 17).

The USDOL requires Federal agencies to submit a Section 5.7 Enforcement Report on all enforcement actions where underpayments by a contractor or subcontractor total \$1,000 or more, *or* where there is reason to believe that the violations are aggravated or willful. In cases where a 5.7 Enforcement Report is completed, it must be submitted to Commerce no later than 30 days after the completion of the investigation. (Note that the



\$1,000 threshold refers to the underpayments of a single employer to his/her *entire* workforce and not to individual employees.)

- f. When a construction contract is completed **for each prime and sub-contractor**, submit a *Final Labor Standards Compliance Report* to the Commerce's Labor Standards Specialist detailing the underpayments collected (see *Attachment 18*).

**Your Project Representative must receive all applicable labor standards reports before the final draw request can be processed.**

**ATTACHMENT 1: DAVIS-BACON COVERAGE CHART  
CDBG FINANCED ACTIVITIES**

<u>Financed Activity</u>	<u>Activity Covered?</u>	<u>Related Private Construction Covered?</u>
Land Acquisition	N/A	No
Demolition (no construction on-site contemplated)	No	N/A
Demolition (to be followed by on-site construction)	Yes	<u>No</u> , if the demolition was done under a separate contract by grantee (state, county, city, etc.) or its contractor before transfer of the land to the developer. <u>Yes</u> , if the demolition contracted for by same entity (developer, contractor, etc.) is doing private construction and will be carried out while the contracting entity controls the site.
Off-site improvements (street work, storm sewers, utility construction, etc.)	Yes	<u>No</u> , if off-site improvements are separately owned and the off-site work and on-site construction is provided for in separate construction contracts.
On-site improvements (excavation/grading, storm drainage, utility or sewer work, paving/walks/stripping, site lighting, landscaping, etc.)	Yes	<u>No</u> , if on-site improvements are done under a separate contract by the grantee (state, county, city, etc.), or its contractor before transfer of land to developer. <u>Yes</u> , if improvements are designed and intended to serve building on the site; will be contracted for by same entity having building constructed; and will be carried out while contracting entity controls the site.
Cleaning During Construction	Yes	<u>Yes</u>
Cleaning After Construction to Prepare for Occupancy	No	<u>No</u> , if performed under a separate contract.
Material Purchase (manufacturing)	N/A	<u>No</u> , no construction involved.
Material Purchase (building)	N/A	<u>Yes</u> , unless materials have an independent use.
Equipment, Machinery, and Fixtures Purchase (as opposed to installation)	N/A	<u>No</u> , if purchased under a separate contract
Equipment, Machinery, and Fixtures Installation (as opposed to, or in addition to, purchase)	<u>Yes</u> , if more than incidental amount of construction work involved.*	<u>Yes</u> , if more than an incidental amount of construction work involved in the installation. *
Legal/Accounting Fees	N/A	<u>No</u> , if obtained under a separate contract.
Architectural and Engineering Fees	N/A	<u>No</u> , if obtained under a separate contract.
Construction Management	N/A	<u>No</u> , if obtained under a separate contract.
Tenant Allowances for Nonconstruction Expenses (furniture, business licenses, etc.)	N/A	<u>No</u> , if obtained under a separate contract.
* Construction work involved in installation is incidental if the cost is 13 percent or less of the total cost of the CDBG-financed equipment; if it is more, a four-part test applies.		

## ATTACHMENT 2: DAVIS-BACON AND RELATED ACTS (DBRA) INTERPRETATIONS AND APPLICATIONS

- A. Force Account Under most Davis-Bacon statutes, only employees of contractors or subcontractors are subject to Davis-Bacon wage requirements. In some instances, rather than contracting or subcontracting out construction work, a grant recipient performs the construction in-house, with its own "force account" employees. Such force account work is not subject to Davis-Bacon wage requirements under statutes that cover only employees of contractors and subcontractors. Furthermore, the USDOL does not consider a state or local government to be a contractor, even if it enters into a contract to perform construction work (see 29 CFR Section 5.2(h)). However, under the Housing and Community Development Act of 1974, a private firm that receives federal assistance funds indirectly from a recipient pursuant to a written procurement contract of subgrant agreement that provides for the performance of construction work is considered a contractor or subcontractor, and the force account exception **does not** apply to construction activity performed by employees of such a firm.

Laborers and mechanics employed by a local or state agency PHA (Public Housing Authority only), even though not employed by a contractor, are subject to Davis-Bacon when performing development work financed by the U.S. Housing Act of 1937, as amended. Davis-Bacon prevailing wage requirements are not applicable where such employees are used in work defined as major repairs (deferred maintenance) pursuant to 24 CFR Part 868.3 and Part 868.9(h), which constitute project operation rather than development.

- B. Compliance and Certification Parameters HUD policy clearly affords prevailing wage protection for all laborers and mechanics, regardless of contractual relationship. There is no exception to this protection for self-employed laborers or mechanics, including owners of businesses, sole proprietors, partners, corporate officers, or others. Laborers and mechanics may not certify to the payment of their own prevailing wages except where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew.

Accordingly, HUD and program participants responsible for labor standards administration and enforcement **may not** accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. A sole proprietor may not submit a payroll reporting himself or herself as simply "Owner" signing the certification as to his/her own wage payment from "draws" or other payment methods. Nor may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaries. Such mechanics must instead be carried on the certified payroll of the contractor or subcontractor for whom they are working and with whom they have executed a "contract" for services.

In these cases, maintenance of an accurate accounting of weekly work hours including any overtime hours for such mechanics is essential. Whatever method of compensation computation is utilized (piecework, weekly contract draw performance), the amount of weekly compensation divided by the actual hours of work performed for that week must result in an "effective" hourly wage rate for that week that is not less than the prevailing hourly rate for the type of work involved. This computation must take into account overtime pay rates (i.e., one and one-half) for all hours worked in excess of 40 hours per week, pursuant to the CWHSSA, where applicable, and pursuant to the Fair Labor Standards Act where CWHSSA is not applicable.

The name, work classification, actual hours of work, effective hourly wage rate, and wage payment for each such mechanic and laborer must be reported and certified on the responsible employer's weekly payroll. Note that the effective hourly wage rate for such mechanics and laborers may fluctuate from week to week. However, the effective hourly wage rate may not be less than the minimum prevailing wage rate for the respective craft. In any case, where the effective rate falls below the corresponding craft prevailing wage rate, the responsible employer must compensate the mechanic at no less than the prevailing wage rate on the wage determination for the craft.

- C. Business Owners Working With Their Crew Owners of businesses working with their crew on the same HUD-assisted job site **may** certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to compliance standards **does not** suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner of his/her own wages as that certification **accompanies** the certification offered for payment of prevailing wages to his/her employees. On weekly payroll reports, include the owner's name, identifying him/her as "owner," and the daily and total hours worked on the covered project for the week. Omit the Rate of Pay and Amount Earned.
- D. Owner-operators of Power Equipment Frequently, owner-operators of power equipment (e.g., backhoes, front-end loaders) will contract for services at a rate for both "man and machine." In these cases, the owner-operator includes liability, equipment maintenance, and salary in an hourly or contract rate for services. Because of the prevalence of such practice and the inherent difficulty in ascribing costs for liability and maintenance costs versus hourly labor salary, HUD and its program clients may accept a combined ("man and machine") hourly rate on the responsible contractor's certified payroll provided that such hourly rate may not be less than the rate on the wage determination for the respective power equipment operator. **Note:** Owner-operators of power equipment, like self-employed mechanics, **may not** submit their own payrolls certifying to the payment of their own wage **but** must be carried on the responsible contractor's certified payroll report. Include the name, work classification, and actual hours worked. Upon completion of the contract, verify the pay by taking the amount paid to the subcontractor (documented with copies of all invoices identified for this job) and divide by the hours reported on the certified payrolls. Compare the actual hourly wage rate with the rate in the Wage Decision. If the actual hourly wage is less than the Davis-Bacon Wage Rate, collect and disburse the wage underpayments.
- E. "Owner Operator" Truck Drivers A USDOL administration policy excludes bona fide owner-operators of trucks who are independent contractors from Davis-Bacon/CWHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner-operators" can certify to their own weekly payrolls **but** the payrolls do not need to show the hours worked or rates allegedly paid - only the notation "Owner-operator." **Note** that any laborers or mechanics, including truck drivers, employed by the owner-operator/independent contractor are subject to Davis-Bacon/CWHSSA provisions in the usual manner.

This policy **does not** pertain to owner-operator of other equipment such as backhoes, bulldozers, cranes and scrapers (i.e., power equipment as noted in the paragraph titled "Owner-operators of Power Equipment," above).

"Contractor's" Truck Drivers Based on the decision made in the Midway Excavating trial, (Building and Construction Trades Department, AFL-CIO vs. USDOL Wage Appeals Board "Midway") truck drivers employed by contractors are only covered by prevailing wage requirements when they are performing labor on the site of the work. (e.g. if you are building a highway and the truck driver is loading, unloading, spreading, or driving back and forth on the site, then the truck driver is covered). Hauling materials to or from the site, if not performed on the site, it not covered time. HUD has advised that they currently believe unloaded are likewise not covered.

- F. Determining Proper Classification for Various Work Questions as to the proper classification of a laborer or mechanic for various types of work are resolved by making an area-practice determination. In determining the proper classification for work performed on a project, it is immaterial whether the contractor is union or nonunion.

On projects where the prevailing wage rate for classification is question within the applicable wage decision are based on negotiated rates, the prevailing practice concerning work performed in those classifications is that practice observed on projects built by contractors who are a signatory to the collective bargaining agreements. Therefore, unless there is a jurisdictional dispute between the crafts, the duties ascribed to any job classification will be the same as those outlined in the appropriate collective bargaining agreements. If the collective bargaining agreements are silent on this issue, the local unions involved must be consulted.

Conversely, in areas where open shop (non-union) rates are determined to prevail for the classifications in question, those prevailing job practices followed on projects by open shop contractors in the same area become area practice.

- G. Helpers **The classification of Helper in any trade will be very difficult to have approved by the USDOL.** If the contractor wants to pursue a helper classification through the USDOL, they should contact the Labor Standards Specialist at Commerce.
- H. Relatives There are no exceptions made in the enforcement of Davis-Bacon on the basis of family relationship for relatives who are performing the work of laborers or mechanics. They **must be paid the prevailing wage rate for the classification of work performed and be included on the certified payrolls.**
- I. Volunteers HUD allows for the waiver of Davis-Bacon wage rates for volunteers that are **not otherwise employed** at any time of the work for which the individual volunteers. Contact Commerce's Labor Standards Specialist for more details if your community plans on using volunteers on the construction site.
- J. Job Corps Workers USDOL staff in Washington, DC have informed HUD staff that Job Corps workers are not exempt from Davis-Bacon wage when they are working on a job subject to the Davis-Bacon Act.
- K. Employees of a Governmental Body The USDOL has taken the position that the prevailing wage requirements does not apply to employees of a state or political subdivision of a state, but shall apply to employees of a private contractor who is subcontractor of the state or political subdivision. This rule does not apply to the Public Housing Authority (PHA) employees under the U.S. Housing Act of 1937 (see paragraph A. in this section). **Employees of utilities are exempt providing they are only extending existing service to the property.**
- L. Employees Performing Work in More than One Classification A person employed as a laborer or mechanic employed on a contract subject to Davis-Bacon and performing work in more than one classification may be paid not less than the predetermined rate for the actual hours spent in each classification, and provided that the time records are kept in accordance with the actual hours spend in each classification. Employees must sign the payroll showing work in more than one classification for the work week. **Work, which is normally performed as part of the mechanic's craft, is not separable.**
- M. Laborers and Mechanics - Definition The terms "laborers" and "mechanics" are construed to include at least those workers whose duties are manual or physical in nature as distinguished from mental or managerial. Since the classifications of laborers and mechanics to who specified wage rates are payable are identified in the Davis-Bacon wage rate, there is ordinarily no need to distinguish between laborers and mechanics. However, **mechanics are generally considered to include any worker who uses tools, or who is performing the work of a trade.**
- N. Precutting of Parts and Prefabrication of Assemblies The precutting of parts and/or the prefabrication of assemblies are not covered unless conducted in connection with and at the site of the project, or in a temporary plant set up elsewhere solely to supply the needs of the project.
- O. Supply and Installation Contracts The manufacturing or furnishing of materials, articles, supplies, or equipment is not subject to prevailing wages unless conducted in connection with and at the site of the project, or in a temporary plant set up elsewhere solely to meet the needs of the project.
- P. Start of Construction "Start of Construction," as that term is used in connection with labor standards and prevailing wage requirements, means the beginning of initial site clearance and preparation, provided those activities are pursued diligently and are followed without appreciable delay by other construction activity.

- Q. Site of Work The “site of work” is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and to other adjacent or nearby property used by the contractor in such construction which can reasonably be said to be included in the “site” because of proximity. **Operations of a commercial or material supplier established in the proximity of but not on the active site of work prior to the opening of bids are not covered by the Act even if dedicated exclusively to the federal project for a time.**
- R. Fringe Benefits – Funded Plans A contractor may credit contributions for “bona fide” fringe benefits regardless of whether the USDOL has found the particular benefits to be prevailing in the area. Such fringe benefits must be “bona fide.” Ordinarily, bona fide benefits are those common to the construction industry and are paid directly to the employee in cash or into a fund, plan, or program on the employee’s behalf. Contractors may take credit for contributions made under such conventional plans without requesting approval of the USDOL.
- S. Fringe Benefits – Unfunded Plans Where fringe benefit plans are not of the conventional type, it will be necessary for the USDOL to determine if the benefits are “bona fide.” **Contractors seeking approval of unfounded plans must obtain approval from the USDOL.** Contact the Commerce Labor Standards Specialist for more details.
- T. Fringe Benefits – General
1. Contributions to funded plans must be made at least quarterly.
  2. When the cash paid and the per-hour contribution for benefits do not equal the total rate set forth in the wage decision, the difference must be paid to the employee in cash.
  3. Fringe benefits must be paid for straight time and overtime; however, fringe benefits are not included when computing the overtime rate.
  4. Employees who are excluded from funded plans for whatever reason must be paid fringe benefits in cash.
  5. **Note:** Vacation and sick leave plans are generally unfunded, paid from the contractor’s own account, and require USDOL approval before a contractor takes credit toward meeting the fringe benefit obligation.
  6. In determining the cash equivalent credit for fringe benefits payments, the period of time to be used is the period covered by the contribution. For example, if an employer contributes to a plan on a weekly basis, the total hours worked each week (federal and nonfederal) by each employee should be divided into the contribution made by the employer.
  7. Acceptable fringe benefits include the following: medical or hospital care; pensions on retirement or death; compensation for injuries or illness resulting from occupational activity; or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defrayment of cost of apprenticeship or other similar programs, or other bona fide fringe benefits; but only where the contractor to subcontractor is not required by other Federal, State, or local law to provide any of such benefits. The Act excludes fringe benefits that a contractor or subcontractor is obligated to provide under other Federal, State, or local law. No credit may be taken for such benefits. For example, payment for workmen’s compensation insurance under either a compulsory or elective State statute are not considered payments for fringe benefits under the Act. Payments made for travel, subsistence, or to industry promotion funds are not normally payments for fringe benefits under the Act.

No type of fringe benefits is eligible for consideration as a so-called unfunded plan unless:

- a. It could be reasonably anticipated to provide benefits described in the act;
- b. It represents a commitment that can be legally enforced;
- c. It is carried out under a financially responsible plan or program; and
- d. The plan or program providing the benefits has been communicated in writing to the laborers and mechanics affected.

U. Summer Youth Employment Youth who are bona fide students and part of a bona fide “youth opportunity program” may be employed on Davis-Bacon projects on a temporary basis during the summer months and paid below the predetermined Davis-Bacon rates. USDOL All Agency Memoranda #71 and #96 provide policy guidance in this area. HUD requires that the following stipulations be met before summer youth may be employed at less than Davis-Bacon rates:

1. Where collective bargaining agreements representing workers performing similar or related activities at the worksite to which youth are out stationed exists, the union or unions representing those workers must provide concurrence as to the design of the employment project and the use of the youth;
2. Such employment must be provided in accord with statutory safety and minimum wage requirements (both state and federal);
3. Competent supervision must be provided to all youth employment on the project worksites. Ratios of youth to such supervisors should be no greater than four-to-one.

In order to ensure that the administration of summer youth employment complies with USDOL policies and regulations, request for exceptions to the application of Davis-Bacon must be made to the HUD Field Office Labor Relations Staff will advise the requesting contractor of its decision. The specific provisions of the agreement (between management and labor) or the plan of employment must be submitted to the Department of Labor, Wage and Hour and Public Contracts Division, for enforcement purposes. The HUD Field Office Labor Relations Staff will send such plans to the Headquarters Office of Labor Relations.

V. Non-Covered Job Classifications Workers performing the normal duties of the following job classifications are not subject to Davis-Bacon prevailing wage requirements:

1. Project Superintendent.
2. Project Engineer.
3. Project Foreman, as distinguished from a working foreman (working foremen, who devote more than 20 percent of their time during the workweek to mechanic or laborer duties, are laborers and mechanics for the time spent and must be paid the applicable rate for the hours so worked).
4. Watchman.
5. Water Carrier.
6. Messenger, Clerical Workers.

W. Financing of Construction Work – CDBG Laborers and mechanics employed by contractors and subcontractors on construction work financed in whole or in part with Title I assistance are subject to Davis-Bacon wage rates under Section 110 of Title I. To the extent that Part 570 requires broader Davis-Bacon coverage, e.g., on construction work “assisted” under that Part, the regulations shall govern unless an individual waiver is requested and granted by the Assistant Secretary for Community Planning and Development. The use of Title I funds for any of the following items is an example of financing construction work, and Davis-Bacon wage rates shall apply to all construction work performed on the building or property in question: construction loans

or grants; payment for construction materials; payment of interest (or part of the interest) on a construction loan; payment of construction loan origination fees; provisions of a Title I funded permanent loan, mortgage or grant on a structure constructed with a private construction loan when the parties contemplate such ultimate Title I financing at the time of construction; Title I funded “collateral” or “default” accounts established with the lending bank which receive no interest or less than the interest payable on demand accounts. Questions as to whether a use of Title I funds constitutes financing of construction work shall be referred to HUD headquarters for determination.

- X. Technical/Maintenance Wage Rates – Public Housing Section 12 of the U.S. Housing Act of 1937 requires that wages prevailing in the locality shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation of the project. Such wages are determined or adopted by HUD.
- Y. Payment of Low- and Moderate-Income (LMI) assessments In some projects federal funds are used to pay special assessments of LMI households, where those assessments are for the purpose of paying for a public improvement. This use of federal funds invokes the Federal Labor Standards Provisions and makes the construction subject to Davis-Bacon wage rates.
- Z. Piecework roofers and dry-wall hangers are sometimes paid by piecework. Piecework is work paid for at a fixed rate (piece rate) per piece of work done.



**ATTACHMENT 3: LABOR STANDARDS OFFICER DESIGNEE**

*(Type or print clearly.)*

NAME OF GRANTEE
COMMERCE CONTRACT #

LABOR STANDARDS OFFICER: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE/ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

*Send a copy of this form to:*

LABOR STANDARDS SPECIALIST  
DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT  
WISCONSIN DEPARTMENT OF COMMERCE  
201 WEST WASHINGTON AVENUE  
P.O. BOX 7970  
MADISON, WI 53707-7970

**ATTACHMENT 4: INSTRUCTIONS FOR COMPLETING REQUEST FOR WAGE  
DECISION AND RESPONSE TO REQUEST (FORM 308)**

Follow the instructions below which are numbered according to the boxes on the form itself:

1. The Labor Standards Officer's name, typed, and signed.
2. Commerce contract number.
3. Community Name.
4. Community clerk's/contact's phone and fax numbers.
5. Date of this wage decision request.
6. Estimated bid advertisement date.
7. Estimated bid opening date.
8. Prior decision numbers (if any).
9. Estimated dollar value of the project.
10. Type of work to be performed for the project.
11. Check if survey of wages is attached.
12. Check if survey of wages is in progress.
13. Location of where work will be performed including, city/village/town, **CDBG contract project number**, county, and state.
14. Phone/fax/e-mail and address of Community's Labor Standards Officer. The wage decision will be mailed to this address.
15. Describe the construction work to be performed and indicate if it will be divided into separate phases or bid under separate contracts (i.e., Phase I, Contract I). If it is, do not include the separate phase(s) when calculating the percentage of total construction cost for the phase in which a wage decision is being requested. Write in the contract Budget Line Item number, name, and percent of the total construction cost. In your percent calculation, do not include non-construction amounts (i.e., engineering, architectural, administration costs), or amounts that will be used in other phases of the construction project. You will need to submit a separate *Request For Wage Decision* for each construction phase.
16. Check off the classes and categories of laborers, mechanics, or craftsman to be employed. Write in any classes not covered on the list for which a wage rate is needed.
17. Check the Davis-Bacon on-line guide to obtain the wage decision(s) to be used for this project (verify with Commerce you are using the correct wage decision).
18. Send the Request to:  
Labor Standards Specialist  
Division of Housing and Community Development  
Wisconsin Department of Commerce  
201 West Washington Avenue  
P.O. Box 7970  
Madison, WI 53707-7970

U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION REQUEST FOR WAGE DECISION AND RESPONSE TO REQUEST Davis-Bacon Act as Amended and Related Statutes						FORM 308	
<b>DEPARTMENT USE ONLY</b> First Decision #  Modification #  Date of Decision  Second Decision #  Modification #  Date of Decision  Third Decision #  Modification #  Date of Decision	1. Requesting Officer ( <i>typed name and signature</i> )  <div style="text-align: center; font-size: 1.2em;"><b>Pat Smith</b></div>		2. Contract No. PF FY00-0000		16. CHECK OR LIST CRAFTS NEEDED  <i>(Attach continuation sheet if needed)</i>		
	3. Community <b>The Village of Yourville</b>			4. Phone/Fax Numbers <b>608/123-4567</b> <b>608/987-6543</b>		Asbestos worker Boilermaker Bricklayer Carpenter Cement mason Electrician Ironworker <input checked="" type="checkbox"/> <b>Pipe Layer, Bottom Man,</b> <input checked="" type="checkbox"/> <b>General Laborer, Power Tool,</b> <input checked="" type="checkbox"/> <b>Landscaping</b> Lather Marble & tile setter, terrazzo worker Painter Piledriver Plasterer Plumber <input checked="" type="checkbox"/> Power equipment operator <i>(specify types)</i> <input checked="" type="checkbox"/> <b>Backhoe, Endloader</b> <input checked="" type="checkbox"/> <b>Bituminous Paver,</b> <input checked="" type="checkbox"/> <b>Curb Machine</b> Roofer Sheet metal worker Soft floor layer Steamfitter <input checked="" type="checkbox"/> Truck drivers <input checked="" type="checkbox"/> Welders--rate for craft  Other Crafts <input checked="" type="checkbox"/> <b>Demolition</b>    	
	5. Date of Request <b>01/23/4567</b>		6. Estimated Advertising Date <b>June/July 1234</b>		7. Est. Bid Opening Date <b>July 1234</b>		
	8. Prior Decision # ( <i>if any</i> )		9. Est. \$ Value of Contract <div style="display: flex; justify-content: space-between;"> <div>Under 1/2 Million <input checked="" type="checkbox"/> 1/2 to 1 Million</div> <div>1 to 5 Million Over 5 Million</div> </div>		10. Type of Work <div style="display: flex; justify-content: space-between;"> <div>Building Residential</div> <div><input checked="" type="checkbox"/> Highway <input checked="" type="checkbox"/> Heavy</div> </div>		
	11. Wage Survey by Agency Attached? <div style="display: flex; justify-content: space-between;"> <div>YES</div> <div><input checked="" type="checkbox"/> No</div> </div>		12. Wage Survey by Agency in Progress? <div style="display: flex; justify-content: space-between;"> <div>YES</div> <div><input checked="" type="checkbox"/> No</div> </div>				
	14. The complete mailing address to which the wage rate should be mailed. <i>(The wage rate will be mailed to the Community's Labor Standards Officer)</i>						
13. Location of Project <i>(community or other description)</i>  County <b>Your County</b>  State <b>Wisconsin</b>		Phone/Fax/E-mail: <b>(608)123-4567/ (6098)987-6543/ psmith@MSEA.com</b>  Company Name: <b>Pat Smith Engineering Associates</b> Labor Standards: <b>Ms. Pat Smith</b> Address: <b>100 Your Street</b> City: <b>Your Town</b> State: <b>WI</b> ZIP: <b>12345</b>					
15. Construction Budget Summary for Wage Decision Determination This request is for: <b>Entire Construction Project</b> OR Phases <input checked="" type="checkbox"/> and is Phase # <b>2</b> of <b>2</b>							
Budget Line Item (number)		Work Description (name)			% of Total Construction Cost		
<b>0465</b>		<b>Water Tower</b>			<b>48%</b>		
<b>0424</b>		<b>Sanitary Sewer Mains</b>			<b>19%</b>		
<b>0464</b>		<b>Water Mains</b>			<b>17%</b>		
<b>0433</b>		<b>Street Reconstruction</b>			<b>16%</b>		

**Ten days** prior to bid opening date, check the Davis-Bacon on-line site to make sure the wage decision is still in effect. Fax your 10-day bid check to the Commerce Labor Standards Specialist at (608) 264-7834.

**U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION  
REQUEST FOR WAGE DECISION AND RESPONSE TO REQUEST**

**FORM 308**

Davis-Bacon Act as Amended and Related Statutes

<b>DEPARTMENT USE ONLY</b> First Decision #  Modification #  Date of Decision  Second Decision #  Modification #  Date of Decision  Third Decision #  Modification #  Date of Decision	1. Requesting Officer ( <i>typed name and signature</i> )		2. Contract No.		16. CHECK OR LIST CRAFTS NEEDED ( <i>Attach continuation sheet if needed</i> )  Asbestos worker Boilermaker Bricklayer Carpenter Cement mason Electrician Glazier Ironworker Laborer, (specify class) _____ _____ _____  Lather Marble & tile setter, terrazzo worker Painter Piledriver Plasterer Plumber Power equipment operator (specify types) _____ _____ _____  Roofer Sheet metal worker Soft floor layer Steamfitter Truck drivers Welders--rate for craft  Other Crafts _____ _____ _____	
	3. Community			4. Phone/Fax Numbers		
	5. Date of Request	6. Estimated Advertising Date		7. Est. Bid Opening Date		
	8. Prior Decision # ( <i>if any</i> )	9. Est. \$ Value of Contract		10. Type of Work		
		<div style="display: flex; justify-content: space-between;"> <span>Under 1/2 Million</span> <span>1 to 5 Million</span> </div> <div style="display: flex; justify-content: space-between;"> <span>1/2 to 1 Million</span> <span>Over 5 Million</span> </div>		<div style="display: flex; justify-content: space-between;"> <span>Building</span> <span>Highway</span> </div> <div style="display: flex; justify-content: space-between;"> <span>Residential</span> <span>Heavy</span> </div>		
	11. Wage Survey by Agency Attached? YES                      No		12. Wage Survey by Agency in Progress? YES                      No			
14. The complete mailing address to which the wage rate should be mailed. ( <i>The wage rate will be mailed to the Community's Labor Standards Officer</i> )  Phone/Fax/E-mail: _____ / _____ / _____ Company Name: _____ Labor Standards: _____ Community Labor Standards Officer: _____ Address: _____ City: _____ State: _____ ZIP: _____						
13. Location of Project ( <i>community or other description</i> )  County  State						
15. Construction Budget Summary for Wage Decision Determination This request is for: <b>Entire Construction Project</b> OR <b>Phases</b> _____ and is Phase # _____ of _____						
Budget Line Item (number)	Work Description (name)			% of Total Construction Cost		
<b>Total</b>			<b>100%</b>			

Ten days prior to bid opening date, check the Davis-Bacon on-line site to make sure the wage decision is still in effect. Fax your ten-day bid check to the Commerce Labor Standard Specialist at (608) 264-7834.

**ATTACHMENT 5: CONTRACTOR'S REPORT OF CONSTRUCTION WAGE RATES**  
(FORM WD 10)

<b>U.S. DEPARTMENT OF LABOR</b> <b>EMPLOYMENT STANDARDS ADMINISTRATION</b> <b>WAGE AND HOUR DIVISION</b>							
1. Contractor's Name and Address: (Street, City, State, and Zip)				2. Name and Description of Project:			
3. Location of Project (City, County, State, ZIP code)				4. Type of Construction: (Check one)  <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Building  <input type="checkbox"/> Heavy  <input type="checkbox"/> Highway         </div> <div> <input type="checkbox"/> Residential                ____ Stories                ____ Units         </div> </div>			
5. Approximate Cost		6. Date Construction Began		7. Date of Completion (or percentage)			
<b>INSTRUCTIONS:</b> From the peak payroll for each classification listed, fill in the number of employed and the basic rate and fringe payments paid for each classification. Employees in an approved apprentice program or those being trained in a formal or informal training program should be included.							
8. Classifications	9. Number Employed	10. Pay Period Ending Date	11. Basic Hourly Rates	12. Fringe Benefits Payment			
				a H&W	b Pension	c Vacation	d App Tr
13. Remarks							
<b>NOTE:</b> The willful falsification of any submitted information may result in civil or criminal prosecution. See Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.							
14. Signature of Contractor				15. Telephone Number		16. Date	

## ATTACHMENT 6: TEN DAY WAGE DECISION STATUS CHECK (Prior to Bid Opening)

**Ten calendar days before the big opening date**, contract Commerce's Labor Standards Specialist at 608/266-7998 to make sure that the wage decision is still in effect. If it has been replaced or modified, notify the prospective bidders of the changes so that they can modify their bids. Complete the following table and place it in your labor standard file. **If you fail to do this, the wrong wage rates might be used and your community will be liable for any difference in the cost.**

**If you open a bid and wait more than 90 days to award the contract, check with Commerce's Labor Standards Specialist to see if the wage decision has been modified or superseded. If it has, you must use the modified wage decision in your construction project.**

**If you plan to re-bid a project because first bids were too high, check with Commerce's Labor Standards Specialist to see if the wage decision has been modified or superseded. If it has, you must use the modified wage decision in your construction project.**

Grantee: \_\_\_\_\_

Date Commerce Contacted: \_\_\_\_\_

County: \_\_\_\_\_

Bid Date: \_\_\_\_\_ Contract Number: \_\_\_\_\_

Wage Decision Number	Modification Number and Publication Date	Has Decision Been Modified?	New Wage Decision Number	New Mod. Number and Publication Date	Has Project Been Re-bid?
<i>(If Applicable)</i>					
WI _____	Mod. _____ Date ____ / ____ / ____	No ____ Yes ____	WI _____	Mod. _____ Date ____ / ____ / ____	No ____ Yes ____ Date ____ / ____ / ____
WI _____	Mod. _____ Date ____ / ____ / ____	No ____ Yes ____	WI _____	Mod. _____ Date ____ / ____ / ____	No ____ Yes ____ Date ____ / ____ / ____
WI _____	Mod. _____ Date ____ / ____ / ____	No ____ Yes ____	WI _____	Mod. _____ Date ____ / ____ / ____	No ____ Yes ____ Date ____ / ____ / ____

## ATTACHMENT 7: REQUEST FOR ADDITIONAL CLASSIFICATION

(Complete this form and fax it to the Commerce Labor Standard Specialist)

<b>REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION</b>			<b>TYPE OF CONSTRUCTION</b> <input type="checkbox"/> RESIDENTIAL <input type="checkbox"/> HEAVY <input type="checkbox"/> BUILDING <input type="checkbox"/> HIGHWAY	
1. TO: UNITED STATES DEPARTMENT OF LABOR DIVISION OF WAGE DETERMINATIONS 200 CONSTITUTION AVENUE, N.W. WASHINGTON, D.C. 20210		2. FROM: WI DEPARTMENT OF COMMERCE LABOR STANDARDS REPRESENTATIVE 201 WEST WASHINGTON AVENUE P.O. BOX 7970 MADISON, WI 53707-7079		
3. Prime Contractor: Company Name, Address, and ZIP				
4. Contract Number	5. Date Bid Opening (Sealed Bid)	6. Date of Award	7. Date Contract Work Started	8. Date of Request
9. Subcontractor(s) (If Any)				
10. Project and Description of Work (attach additional sheet if needed)				
11. Location (City, County, State)				
12. In order to complete the work provided for under the above contract, it is necessary to establish the following rate(s) for the indicated classification(s) not included in the department of labor determination. <b>Attach Appropriate Wage Decision(s)</b> Bid Opening Date _____ Bid Award Date _____ Number _____ Modification _____ Dated _____				
a. List in order proposed classification, title(s), job description(s), duties, and rationale for proposed classifications <i>(Use reverse or attach additional sheets, if necessary)</i>		b. Base Rates	c. Fringe	d. TOTAL
<b>SUBJECT TO APPROVAL BY THE U.S. DEPARTMENT OF LABOR</b>				
13. Grantee: Community Name, Address, and ZIP				
14. Signature and Title of Prime Contractor Representative		15. Signature and Title of Employee or Representative		
Signature of Commerce Labor Standards Representative		Telephone Number(s)		Date Submitted

## ATTACHMENT 8: ADVERTISEMENT FOR BIDS

Project Number: \_\_\_\_\_ Owner: \_\_\_\_\_

Separate sealed bids for \_\_\_\_\_

for \_\_\_\_\_

will be received by \_\_\_\_\_

at the office of \_\_\_\_\_

until \_\_\_\_\_ o'clock (AM \_\_\_\_\_ PM \_\_\_\_\_; ST \_\_\_\_\_ DST \_\_\_\_\_) \_\_\_\_\_, 19\_\_\_\_

and then at said office publicly opened and read aloud.

The information for Bidders, Form of Bid, Form of Contract, Plans, Specifications, and Forms of Bid Bond, Performance and Payment Bond, and other contract documents may be examined at the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Copies may be obtained at the office of \_\_\_\_\_

located at \_\_\_\_\_ upon payment of

\$ \_\_\_\_\_ for each set. Any successful bidder, upon returning such set promptly and in good condition, will be refunded his/her payment, and any non-bidder upon so returning such set will be refunded \$ \_\_\_\_\_.

The owner reserves the right to waive any informalities or to reject any or all bids.

Each bidder must deposit with his/her bid, an amount to secure the bid and subject to the conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under contract, Section 3, Segregated Facility, Section 109 and E.O. 11246.

No bidder may withdraw his/her bid within 30 days after the actual day of the opening thereof.

Date \_\_\_\_\_ Chief Elected Official Signature \_\_\_\_\_



## ATTACHMENT 9: FEDERAL LABOR STANDARDS PROVISIONS (4010)

### Federal Labor Standards Provisions

U.S. Department of Housing  
and Urban Development

#### Applicability

The project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provision applicable to such Federal assistance.

**A. 1. (I) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (19 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or cost reasonable anticipated for bona fide fringe benefits under Section 1(b)(2), of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers and mechanics, subject to the provisions of 29 CFR-5.5(a)(1)(IV); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification for work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5 (a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1 321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers and mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management & Budget under OMB Control # 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any cost reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for an on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act Contracts.

**3. Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of four (4) years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name and address, and social security number of each such worker, his or her correct classification, hourly rates of wage paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1 (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the

Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contract shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I) and that such information is correct and complete:

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wage earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set in 29 CFR Part 3:

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A. 3. (ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A. 3. (I) of this section available for inspection, copying, or transcription by the authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

**4 (i) Apprentices and Trainees. Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices of journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirement.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as HUD or its designee may be appropriate instructions require, and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.12.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (of any of its subcontractors) and HUS or its designee, between the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C. "Federal Housing Administration Transactions", provides in part: "Whoever, for the purpose of...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms "Laborers" and "Mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rates of pay for all hours worked in excess of forty hours in such work week.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchman and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.**

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

**(3)** The Contract shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

DATE: \_\_\_\_\_ TO: Commerce Labor Standards Specialist

SUBJECT: Award of Contract

COMMERCE CONTRACT #: \_\_\_\_\_

CONTRACT LINE ITEM(S): \_\_\_\_\_

and opened on \_\_\_\_\_.

(Date) (Name of Prime Contractor)

Number, of the applicable wage decision is (Number & Mod. Number). The estimated start date of

construction is \_\_\_\_\_

Below is a list of tentative subcontractors:

[illegible]

**ATTACHMENT 11: PRECONSTRUCTION CONFERENCE  
ITEMS TO BE DISCUSSED**

- A. Requirements and penalties of the Davis-Bacon Act.
- B. Requirements and penalties of the Contract Work Hours and Safety Standards Act.
- C. Requirements and penalties of the Copeland Anti-Kickback Act.
- D. Minority Business Enterprises (MBE's) and Women's Business Enterprises (WBE's) Participation.
- E. Discussion of the Wage Decision.
  - 1. Trade classifications.
  - 2. Missing classifications.
  - 3. Missing classifications that can be conformed.
  - 4. Employment of Apprentices.
    - a. Proper papers from state or U.S. Department of Labor required.
    - b. Allowable ratio of Apprentices to Journeymen.
    - c. Apprentice supervision by Journeymen required at all times.
  - 5. Truck drivers, employed by the contractor, delivering materials, and spending more than an incidental amount (more than 20 percent) of their time on the job site, are covered.
  - 6. Requesting additional classifications--procedures and information required.
- F. Proper Certification.
  - 1. Each subcontractor is covered, regardless of the amount of the subcontract.
  - 2. Each subcontractor must have a written contract.
  - 3. Requirements governing owner-operators. Questionnaire required for subs without IRS Employer identification number.
  - 4. Prime Contractor is responsible for ensuring that subcontractors are not debarred from working on federal projects.
- G. Collect IRS Employer identification numbers for all contractors.
- H. Discuss the requirement to post the wage rate, additional classifications, and Davis-Bacon posters on the project site. They must be protected from the weather and visible to the public.
- I. Weekly Payroll Submission.
  - 1. Payrolls must be submitted weekly to the prime contractor, who must submit them to the grantee's labor standards officer within seven working days of the end of the payroll period.
  - 2. Statement of Compliance (back of WH 347 **OR** WH 348) must be completed and submitted with each payroll.

3. Payroll Completion.

- a. Recommend form WH-347. Alternate forms are allowed but must be cleared with the labor standards officer. The form must contain the contractor's name and IRS I.D. number.
- b. Each weekly payroll must be numbered in sequential order. Each week from beginning to end of the contractor's time on the job must be accounted for by either a payroll or a "no work" letter.
- c. Project and location must be identified on the payroll.
- d. Each employee's address and social security number must appear on the payroll for the first week that they work.
- e. Completion of the withholding exemptions column is not required.
- f. Work classification must conform to the trades listed on the wage rate or Additional Classification.
- g. Apprentice indenture papers should be attached to the first payroll that he/she appears.
- h. Employees working split classifications--hours and wages for each classification must be identified on the payroll plus the employee must sign the payroll form or submit a signed copy of the time card. Average pay of the two classes is NOT acceptable.
- i. The work classification of "helper" is not accepted by Commerce unless it is listed on the original wage rate.
- j. Straight and overtime hours worked each day must be reported. Emphasize again the penalties for violation of CWHSS Act. Only overtime on the CDBG job needs to be reported.
- k. Rates of Pay.
  - 1) Not less than the minimum wage for each classification and must include base rate plus fringe benefits.
  - 2) Overtime rate is one and one-half times the **base rate actually paid** plus the straight time value of fringe benefits (if paid in cash) for all hours over 40 in a work week.
  - 3) Apprentice wage rate will be established by the step level of the apprentice based on the journeymen rate in the wage rate.
  - 4) Apprentices must receive the fringe benefits specified in their indenture. If the indenture does not specify, then they must receive the full value states in the wage rate.
  - 5) Piece work--must be stated as an hourly rate and a copy of signed time card showing piece rate and number of units must be submitted.
- l. Gross amount earned--must be shown as HUD Gross/Total earnings for the week.

- m. Deductions.
    - 1) Must be specified on the payroll.
    - 2) Written permission must be submitted for "other" deductions.
    - 3) Proper documentation of all deductions must be submitted.
  - n. Net wages--enter the amount of the employee's net check.
  - o. Fringe Benefits.
    - 1) Check box 4(a) if benefits are paid to approved funds and submit evidence of the value of the fringe benefits.
    - 2) Check box 4(b) if fringe benefits are paid in cash.
    - 3) List any exceptions to whichever box is checked.
  - p. Signature--payrolls must be manually signed by the employer or an official of the employer who is authorized to sign.
- J. Time cards, signed by the employees, must be retained for four (4) years.
- K. Payrolls must be retained for four (4) years.
- L. Employer must inform each employee that they are subject to being interviewed on the job by the recipient, state, HUD, or the USDOL concerning wages, hours and duties.
- M. Review the process to be used to secure payments for work.
- N. Failure to comply with aforementioned items will cause a delay in payouts by the municipality.

## ATTACHMENT 12: PRECONSTRUCTION CHECKLIST FOR CONTRACTORS

### MEETING LABOR STANDARDS CONTRACT REQUIREMENTS

#### INTRODUCTION

The following checklist has been prepared to assist contractors and subcontractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence they will occur as the construction project proceeds. Careful attention to and the use of this checklist should result in a minimum number of problems with respect to labor standards.

#### EXPLANATORY NOTES

The word "employer" as used below refers to the project contractor, each subcontractor, or each lower-tier subcontractor. Payrolls and other documentary evidence of compliance are required to be sent to the recipient for review (all to be submitted through the project contractor). The delivery procedure is as follows:

1. Each lower-tier subcontractor, after careful review, submits the required documents to the respective subcontractor.
2. Each subcontractor, after checking his/her own and those of each lower-tier subcontractor he/she may, submit the required documents to the contractor.
3. The contractor, after reviewing all payrolls and other documentation, including his/her own, and correcting violations where necessary, submits payrolls to the recipient.

All employees should check each of the following statements as being true. If any statement is not true, the contractor or his representative should contact the recipient for special guidance.

**Complete the information below for numbers 1 through 6, sign this sheet, keep a copy for your records, and submit the original to your designated project supervisor. This should be done 21 days before the work begins.**

#### BEFORE CONSTRUCTION BEGINS EACH EMPLOYER HAS:

1. Not been debarred or other wise made ineligible to participate in any federal or federally-assisted project. ☐
2. Received appropriate contract provisions covering labor standards requirements. ☐
3. Reviewed and understands all labor standards contract provisions. ☐
4. Received the applicable wage decision as part of the contract. ☐
5. Requested through the recipient and received the minimum wage for each classification to be worked, that was not included on the wage rate by the additional classification process and before allowing any such trade(s) to work on the project. ☐
6. Requested and received certification of its apprentice program from the State's Bureau of Apprenticeship and Training (recognized by USBAT) and submitted copy thereof to the recipient prior to employment on the project. Likewise, "trainee" program certification from USBAT, if applicable, must be submitted. ☐

\_\_\_\_\_  
(Contractor Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Location of Project: City, County, State)

\_\_\_\_\_  
(Contract Number)



AT CONSTRUCTION STATE, THE CONTRACTOR HAS:

1. Notified recipient of construction start date in writing. ☐
2. Placed each of the following on a bulletin board prominently located on the project site which can be seen easily by the workers (and replaced if lost or unreadable any time during construction):
  - Applicable Wage decision ☐
  - Notice to Employees (WH 1321) ☐
3. Before assigning each project worker to work, obtained worker's name, best mailing address, and Social Security number (for payroll purposes). ☐
4. Obtained a copy of each apprentice's certificate with the apprentice's registration number and his/her year of apprenticeship from the state BAT. ☐
5. Informed each worker of:
  - His/her work classification (journeymen or job title) as it will appear on the payroll in the wage decision or through the additional classification process. ☐
  - His/her duties of work. ☐
  - The USDOL's requirement on this project that he/she is either a journeyman, apprentice, or laborer. ☐
    - If journeymen, he/she is to be paid journeyman's minimum wage rate or more; ☐
    - If apprentice, he/she is to be paid not less than the apprentice's rate for the trade based on his/her year of apprenticeship; or ☐
    - If laborer, he/she is to do laborer's work only--not use any tool or tools of the trade--and not perform any part of a journeyman's work--and is to be paid the laborer's minimum wage rate or more. ☐
6. Understands the requirements each laborer or mechanic who performs work on the project in more than one classification within the same workweek shall be classified and paid at the highest wage rate applicable to any of the work which he/she performs unless the following requirements are met:
  - Accurate daily time records shall be maintained. These records must show the time worked in each classification and the rate of pay for each classification, and must be signed by the worker. ☐
  - The payroll shall show the hours worked in each classification and the wage rate paid for each classification. ☐
  - The payroll shall be signed by each workman, or a signed copy of the daily time record shall be attached thereto. ☐
7. Has informed each worker of his/her hourly wages (not less than the minimum wage rate for his/her work which is stated in the wage rate).
  - Time and one-half for all work over 40 hours in any workweek (see Contract Work Hours and Safety Standards Act). ☐
  - Fringe benefits, if any (see wage decision for any required). ☐
  - Deductions from his/her pay. ☐
8. Has informed each worker that he/she is subject to being interviewed on the job by the recipient or a HUD, USDOL, or other U.S. government inspector, to confirm that his/her employer is complying with all labor requirements. ☐
9. Has informed each journeyman and each apprentice that a journeyman must be on the job at all times when an apprentice is working and verifying the ratio of journeyman to apprentice through the indenture papers. ☐

## DURING CONSTRUCTION - EACH EMPLOYER:

1. Has not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, or dismissed any project worker because of race, color, religion, sex, or national origin. ☐
2. Has employed all registered apprentices referred to him/her through normal channels up to the applicable ratio of apprentices to journeymen in each trade used by the employer. ☐
3. Will maintain basic employment records accessible to inspection by the recipient or U.S. government representatives. ☐
4. is complying with all health and safety standards. ☐
5. Has paid all workers weekly. ☐
6. Has submitted weekly payrolls. ☐
  - A. Prepared on recommended Payroll Form WH-347. ☐

Available from:

Superintendent of Documents  
Government Printing Office  
Washington, D.C. 20402

Note: Contractors who wish to purchase the forms are urged to submit their orders promptly because the Superintendent of Documents takes six weeks to fill orders. It is permissible for contractors to reproduce the forms if they wish.

Some employers place all project workers on Payroll Form WH-347. The recipient does not need to review those project workers listed on the payroll who perform work which is descriptive of any of the following job titles which are exempt from labor requirements: project superintendent, project engineer, messenger, clerical workers, timekeepers, bookkeepers, payroll clerks, and Supervisory foreman (*less than 20 percent of time as a working foreman*).

Any alternate payroll form used should be cleared with HUD before employer starts work on the project. A project printout by computer, for example, is acceptable provided that all data shown and required on the front and back of Payroll Form WH-347 is on, or included with, payroll submitted to recipient.

### B Front Page of Payroll (Form WH-347)

#### Heading (6 "columns" of information)

1. Name of Employer. Name of employer, showing whether contractor or subcontractor Include IRS I.D. number. ☐
2. Address. Street address or P.O. Box, City, State, and Zip Code of Employer. ☐
3. Payroll Number. Each weekly payroll is numbered in sequential order (starting with Payroll No. "1").  
If employer's workers perform no physical work on the project during workweek, he/she has submitted a "no work" letter for that workweek. ☐  
Payroll of employer's final workweek on the project (completion of his work) is marked "Final." ☐
4. For Week Ending. The last date of the workweek is stated in this "column." ☐
5. Project and Location. Name of project and city in which the project is located. ☐
6. Project or Contract Number. Include the contract number provided by the recipient. ☐
7. Column 1 - Worker's Name, as it appears on his/her pay check. ☐  
Worker's best mailing address and social security number is stated on Payroll No. 1 or the payroll on which his/her name first appears. ☐  
If worker changes his/her residential address while working on the project, his/her new address is stated on next applicable payroll. ☐  
If any two or more workers have the same name, their social security numbers are included on the payroll to note separate identification. ☐

8. Column 2 - Number of Withholding Exemptions is for employer's convenience, it is not required by HUD to be completed. ☐
9. Column 3 - The Work Classification (job title) for the worker is included in the Wage rate and denotes the work that worker actually performed. ☐

Note: If the applicable classification is not included in the wage rate, the contractor should call the recipient immediately, and request classification by Additional Classification process.

- 9a. Apprentice. If worker is an apprentice, his/her State BAT registration number and year of apprenticeship is included in this column, the first time the apprentice's name appears on the payroll. ☐
- 9b. Split Classification. If worker has performed work in more than one class of work during the workweek, such as carpenter and laborer, the division of work will be shown on separate lines of the payroll. ☐
  - Accurate daily time records show the exact hours of work performed daily in each class of work, and are signed by the affected workman. ☐
  - Each class of work he/she performed is stated in Column 3 in separate "columns." ☐
  - His/her name is repeated in corresponding "area" in Column 1. ☐
  - The breakdown of hours worked daily under each work classification is stated in Column 4, and total for week in Column 5. ☐
  - The applicable wage rate for each classification of work is stated in Column 6. ☐
  - The payroll is signed by the workman or a signed copy of the daily time records are attached to the payroll. ☐
  - If the above is not done, the worker is paid at least the highest minimum wage rate of all of the classes of work performed for all hours worked. ☐

Average Pay of Two Classes of Work Not Accepted. The employer shall not pay a "semi-journeyman" or semi-skilled laborer the average of journeyman's and laborer's rates. The actual hours each worker uses tools of trade (journeyman) and each hour he/she does not use tools of the trade (laborer) must be recorded in separate "blocks" in Column 3 of the payroll.

Helper. The work classification of "helper" **is not accepted** by the Department of Housing and Urban Development unless included in the wage rate issued by the Secretary of labor for the project. Any employee listed as "helper" in absence of such classification in wage rate **must be paid** the journeyman's rate for hours he/she uses tools of the trade.

10. Column 4 - Hours Worked, Each Day and Date, for workweek is stated. ☐
  - Overtime Hours ("O"), if any, are stated separately from straight hours ("S")--over 40 hours in any workweek. ☐
11. Column 5 - Total Hours worked during the workweek are stated (the sum of subcolumns in Column 4)--straight and overtime hours recorded separately. ☐
12. Column 6 - Rate of Pay, not less than the minimum wage for the work classification (see Wage rate). ☐
  - The Overtime Rate of Pay is not less than one and one-half times the worker's basic (straight) hourly rate of pay (Contract Work Hours Safety Standards Act). ☐
  - Apprentices. If a copy of the apprentice's registration certificate from the State BAT has not been submitted to recipient by employer (through contractor), the apprentice must be paid journeyman's rate. ☐
  - Piece Worker. Piece work must be stated in Column 6 at an hourly rate, the gross pay for the workweek (work on the project) divided by the total number of hours worked on the project during the workweek. ☐
13. Column 7 - Gross Amount Earned equals straight hours shown in Column 5 times straight rate of pay shown in Column 6, plus overtime hours (if any) shown in Column 5 times overtime rate of pay shown in Column 6. ☐

14. Column 8 - Deductions. Each deduction made is required by law, or voluntarily authorized by the worker in writing before the workweek began, or provided in a bargaining agreement to be deducted from the respective worker's pay. ☐
15. Column 9 - Net Wages stated are Column 7 minus total deductions shown in Column 8. ☐

C. Back of Payroll (Payroll Form WH-347). Each employer has:

1. Completed all blank spaces and understands the penalties for falsification. ☐
2. Checked Item 4 if fringe benefits are included in the wage rate for any of his/her workers. ☐
  - 2(a). if fringe benefits are paid to approved fund(s), or ☐
  - 2(b). if paid directly to each affected worker--included in paycheck for the workweek-his/her paycheck representing at least the pay of the applicable minimum wage rate plus the amount of required fringe benefits. ☐
3. Manually signs the payroll in the "area" marked signature, and state his/her title. ☐
4. The person who signs the payroll is the employer or an official of the employer who is legally authorized to act for the employer. ☐

D. Weekly Payroll Review. Each employer has promptly:

1. Reviewed the weekly payroll for compliance with all labor requirements (using this check list) and made necessary corrections. ☐
2. Each Lower-Tier Subcontractor has submitted his/her weekly payroll or "no work" letter to the respective subcontractor, which must be received within three calendar days from the last date of the workweek. ☐
3. Each subcontractor has received a payroll or "no work" letter from each of his/her lower-tier subcontractors, reviewed each and his/her own payroll, made necessary corrections, and submitted all of such payrolls to the contractor, which must be received within five calendar days from the last date of the workweek. ☐
4. Contractor has received a payroll or "no work" letter from each subcontractor and each lower-tier subcontractor, monitored each including his/her own payroll, made necessary corrections, and collectively submitted them to the recipient within seven working days of the last date of the respective workweek. ☐

Payrolls and other documentary evidence of compliance are required to be sent to the recipient for review (all to be submitted through the project contractor).

**ATTACHMENT 13: PRECONSTRUCTION REPORT FORMAT**

**(Write N/A if a Preconstruction Conference was not held)**

Project Name: \_\_\_\_\_ Project No.: \_\_\_\_\_

Location: \_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contractor: \_\_\_\_\_

Contract Amount: \$ \_\_\_\_\_

Date of Conference: \_\_\_\_\_

Place of Conference: \_\_\_\_\_

Attendees (Name & Title): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Summary of items covered: (must include Equal Opportunity, Section 3, Labor Standards, the contractor's role and responsibility, the city's/community's role and responsibilities, reporting requirements and sanctions).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ATTACHMENT 14: INSTRUCTIONS FOR COMPLETION OF PAYROLL  
(FORM WH-347)**

**U.S. DEPARTMENT OF LABOR WAGE AND HOUR DECISION**

General: The use of WH-347 payroll form, while not mandatory, is suggested. This form has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls.

Contractor or Subcontractor: Fill in your firm's name, IRS I.D. number, and check appropriate box.

Address: Fill in your firm's address.

Column 1 Name, Address, and Social Security Number of Employee: The employee's full name and Social Security number must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. If the employee moves before the project end date, include the updated address on the next payroll submitted.

Column 2 Withholding Exemptions: This column is not a requirement.

Column 3 Work Classifications: List classification descriptive of work actually performed by employees. Employee may be shown as having worked in more than one classification provided accurate breakdown of hours so that the hours worked are maintained and shown on submitted payroll by use of separate line entries.

Column 4 Hours Worked: On all contracts subject to the Contract Work Hours Standards Act enter as overtime hours, all hours worked in excess of 40 hours a week.

Column 5 Total: Self-explanatory.

Column 6 Rate of Pay, including Fringe Benefits: In straight time box, list actual hourly rate paid for the employee for straight time worked plus any cash in lieu of fringes paid the employee. When recording the straight time hourly rate, any cash paid in lieu of fringes may be shown separately from the basic rate, thus \$325/40. This is of assistance in correctly computing overtime. In the overtime box, show overtime hourly rate paid, plus any cash in lieu of fringes paid the employee. Payment of not less than time and one-half the base or regular rate paid is required for overtime under the Contractor Work Hours Standards Act of 1962. In addition to paying not less than the predetermined rate for the classification in which the employee works, the contractor shall pay to approved plans, funds or programs, or shall pay as cash in lieu of fringes amounts predetermined as fringe benefits in the wage rate made part of the contract.

FRINGE BENEFITS – Contractors who pay all required fringe benefits: A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than determined in the applicable wage rate of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to these employees just as he/she has always done. Such a contractor shall check paragraph 4(a) of the statement of indicate payment to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in Section 4(c).

Contractors that do not pay fringe benefits: A contractor that doesn't pay fringe benefits shall pay to the employee and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage rate. It is not necessary to pay time and one-half on cash paid in lieu of fringes, the overtime rate shall not be less than the sum of the basic predetermined rate, plus the half-time premium on basic or regular rate, plus the required cash in lieu of fringes at the straight time

rate. In addition, the contractor shall check paragraph 4(b) to indicate that he/she is paying fringe benefits in cash directly to his/her employees. Any exception shall be noted in Section 4(c).

Use of Section 4(c), Exceptions: Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage rate required is obligated to pay the difference directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or programs as fringes. The contractor shall pay and shall show the payment to each such employee for all hours (unless otherwise provided by applicable wage rate) worked on Federal or Federally-assisted projects an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Column 7 Gross Amount Earned: Enter gross amount earned on this project. If part of the employee's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally-assisted project and then the gross amount earned during the week on all projects, thus \$63.00/120.00.

Column 8 Deductions: Five columns are provided for showing deductions made. If more than five deductions should be involved, use first 4 columns; show the balance of deductions under "Other" column. Show actual total under "Total Deductions" column, and in the attachment to the payroll describe the deductions contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, Part 3. If the employee worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, but indicate that deductions are based on his gross wages.

Column 9 Net Wages Paid for Week: Self-explanatory.

Statement Required by Regulations Parts 3 and 5: While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USC 1001, namely, possible imprisonment for five years or a \$10,000.00 fine or both. Accordingly, the party signing this required statement should have knowledge of the facts represented as true.

Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in the payroll." See paragraph entitled "Fringe Benefits" on the previous page for instructions concerning filling out paragraph 4 of this statement.

PAYROLL

(For Contractor's Optional Use; See Instruction, Form WH-347 Inst.)

NAME OF CONTRACTOR ____ OR SUBCONTRACTOR ____				ADDRESS																	
PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION						PROJECT OR CONTRACT NO.											
(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) # OF EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST	(4) DAY AND DATE								(5) TOTAL HOURS	(6) RATE OF PAY	(7) Gross Amount Earned	(8) DEDUCTIONS						(9) NET WAGES PAID FOR WEEK
															FICA	WITH HOLDING TAX			OTHER	TOTAL DEDUCTIONS	
				Hours Worked Each Day																	
			O																		
			S																		
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FORM WH-347 (1/68)



## **ATTACHMENT 15: INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE**

Under the Davis-Bacon law, the contractor is required to pay fringe benefits as predetermined by the USDOL, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes. Each contractor should complete a Statement of Compliance with the fringe benefits provisions.

The contractor should show on the face of his/her payroll all monies paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he/she is paying fringe benefits required by the contract and is not paying as cash in lieu of fringes. Detailed instructions follow:

### Contractors who pay all required fringe benefits:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage rate of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his/her employees, just as he/she has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate payment to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

### Contractors that do not pay fringe benefits:

A contractor that doesn't pay fringe benefits shall pay to the employee and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage rate. Inasmuch as it is not necessary to pay time and one-half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half-time premium on the basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus #3.25/40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he/she is paying fringe benefits in cash directly to his/her employees. Any exceptions shall be noted in Section 4(c).

### Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage rate required is obligated to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds or programs as fringes. The contractor shall pay and shall show the payment to each such employee for all hours (unless otherwise provided by applicable wage rate) worked on Federal or Federally assisted project an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

## STATEMENT OF COMPLIANCE

Date: \_\_\_\_\_

I, \_\_\_\_\_, \_\_\_\_\_, do hereby state:  
(Name) (Title)

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on  
(Contractor of subcontractor)

the \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_,  
(Building or Work)

20\_\_\_\_\_ and ending the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, all persons employed on said project have been paid in full weekly wages earned that no rebates have been or will be made either directly or indirectly to or on behalf of said

\_\_\_\_\_ from the full wages earned by any person and that no deductions have

(Contractor or subcontractor)

been made either directly or indirectly from the full wages earned by person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as Amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete, that the wage rates for laborers and mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he/she performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in the State, then the apprentice must be registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ - In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ - Each laborer or mechanic listed in the above-referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARKS	
NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION, SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE	

# ATTACHMENT 16: SAMPLE - EMPLOYEE INTERVIEW

## RECORD OF EMPLOYEE INTERVIEW LABOR STANDARDS

1. CDBG Contract No. <b>PF FY00-0000</b>		2. Name of Contractor/Subcontractor <b>Acme Construction</b>	
3. Project Name <b>Yourville Watertower Project</b>		<b>Your City, WI</b>	
4. Name of Employee <b>PAT DOE</b>			
5. Home Address and ZIP <b>111 Your Avenue, Yourville</b>			
6. Last date you worked on the project before today? <b>1/23/4567</b>		7. Number of hours you worked on the project on that date? <b>8</b>	
8. Your Hourly Pay Rate? <b>\$18.50</b>			
9. Your Job Classification? <b>Topman</b>		YES	NO
10. Apprentice?			<b>X</b>
11. Your Duties? <b>Install Pipe, Move Dirt</b>			
12. Tools and/or Equipment Used? <b>Shovel</b>			
13. Paid at Least Time and One-Half for All Hours Worked in Excess of 40 Hours in a Week? (If overtime premium pay is not required, write in "inapplicable" or "N/A")		YES	NO
		<b>X</b>	
14. Ever Threatened, Intimidates, or Coerced into Giving Up Any Part of Pay?			<b>X</b>
15. Duties Observed by Interviewer <b>Same as above.</b>		YES	NO
16. Conform to Classification?		<b>X</b>	
17. Remarks (Continue on reverse if necessary)			
18. Signature of Interviewer <b>John Doe, Inspector</b>		19. Date of Interview <b>1/23/4567</b>	
<b>PAYROLL EXAMINATION</b>			
20. Remarks (Continue on reverse if necessary) <b>Agrees with payroll</b>			
21. Signature of Payroll Examiner <b>Mary Smith</b>		22. Date <b>1/23/4567</b>	

## EMPLOYEE INTERVIEW

### RECORD OF EMPLOYEE INTERVIEW LABOR STANDARDS

1. CDBG Contract No.		2. Name of Contractor/Subcontractor	
3. Project Name			
4. Name of Employee			
5. Home Address and ZIP			
6. Last date you worked on the project before today?		7. Number of hours you worked on the project on that date?	
8. Your Hourly Pay Rate? \$			
9. Your Job Classification?		YES	NO
		10. Apprentice?	
11. Your Duties?			
12. Tools and/or Equipment Used?			
13. Paid at Least Time and One-Half for All Hours Worked in Excess of 40 Hours in a Week? (If overtime premium pay is not required, write in "inapplicable" or "N/A")		YES	NO
14. Ever Threatened, Intimidates, or Coerced into Giving Up Any Part of Pay?			
15. Duties Observed by Interviewer			
16. Conform to Classification?		YES	NO
17. Remarks (Continue on reverse if necessary)			
18. Signature of Interviewer		19. Date of Interview	
<b>PAYROLL EXAMINATION</b>			
20. Remarks (Continue on reverse if necessary)			
21. Signature of Payroll Examiner		22. Date	

## ATTACHMENT 17: SECTION 5.7 ENFORCEMENT REPORT

### To be sent to Darlene Moss, Labor Standards Specialist at Commerce

MEMORANDUM FOR: HUD Labor Standards Field Officer in Chicago

FROM:

SUBJECT: Section 5.7 Enforcement Report

1) Coverage

Project Name: \_\_\_\_\_

Project No.: \_\_\_\_\_

Location: \_\_\_\_\_  
(City) (County) (State)

Wage Decision: \_\_\_\_\_

Program Area/Statute: \_\_\_\_\_

Prime Contractor: \_\_\_\_\_

(City) (County) (State)

Subcontractor \_\_\_\_\_

(City) (County) (State)

2) Violations

Wage restitution in the total amount of \$\_\_\_\_\_ has been paid to \_\_\_\_\_ employees by contractor(s) named above. (See attached Schedule(s) of Wages Found Due.)

Were any of the violations willful? YES NO (circle one)

Were CWHSSA liquidated damages computed? YES NO (circle one)  
(if yes, see attached detailed report)

Are administrative sanctions recommended? YES NO (circle one)  
(if yes, see attached detailed report)

The wage underpayments were discovered through:

\_\_\_\_\_  
\_\_\_\_\_

The type of violations were:

\_\_\_\_\_  
\_\_\_\_\_

3) Disposition

Narrative (use additional pages if necessary) \_\_\_\_\_

## ATTACHMENT 18: FINAL LABOR STANDARDS COMPLIANCE REPORT

(Must be submitted prior to or with the Final Draw Request)

Grantee Name \_\_\_\_\_

CDBG Contract No. \_\_\_\_\_ Project No. \_\_\_\_\_

Project Name \_\_\_\_\_

Project Location \_\_\_\_\_

Prime Contractor \_\_\_\_\_

Bid Opening Date \_\_\_\_\_ Contract Award Date \_\_\_\_\_

Construction Start Date \_\_\_\_\_

Date and location of pre-construction conference \_\_\_\_\_

Was HUD 4010 (Labor Standards Provisions) included in Specifications? \_\_\_\_\_

Was Wage Decision included in Specifications? \_\_\_\_\_

Wage Decision No. \_\_\_\_\_

Number of Employee interviews completed \_\_\_\_\_

Number of Trades interviewed \_\_\_\_\_

Briefly describe any Labor Standards complaints and resolutions

---

---

---

Date Construction Completed \_\_\_\_\_ Amount of Funds Retained \_\_\_\_\_

### CONTRACTOR(S) WITH UNDERPAYMENTS ON THIS CONTRACT

Name	Amount of Wage <u>Underpayments</u>	Number of <u>Employees</u>	Amount of overtime <u>Underpayments</u>	Number of <u>Employees</u>	Liquidated <u>Damages</u>
------	--	-------------------------------	--	-------------------------------	------------------------------

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What comments or recommendations do you have regarding these violations?

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I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE ALL LABORERS AND MECHANICS EMPLOYED ON THIS CONSTRUCTION CONTRACT WERE PAID IN ACCORDANCE WITH THE LABOR PROVISIONS, EXCEPT AS NOTED. THERE ARE NO OUTSTANDING OR UNRESOLVED LABOR STANDARDS PAYMENTS, COMPLAINTS OR DISPUTES.

Signed \_\_\_\_\_

(Designated Labor Standards Officer)

Title \_\_\_\_\_ Date \_\_\_\_\_

## ATTACHMENT 19: FORCE ACCOUNT DOCUMENTATION

1. The <county/city/village/town> must keep separate payroll records for hours worked on the CDBG project verses the hours worked on regular <county/city/village/town> duties. Complete: **Attachment 19a.**

Payroll Records must indicate the following:

- a. Each employee's name
  - b. Each employee's hourly rate
  - c. Number of hours worked (separate CDBG vs. other duties)
  - d. Pay period
2. **No overtime will be paid from CDBG funds unless the employee works in excess of their normal full-time work week, as stated in any labor contract, on the CDBG project.**
  3. The <county/city/village/town> must submit all payrolls for each employee working on the CDBG project with **each** 'Request for Payment of Federal CDBG Funds' form. No CDBG funds will be released without the required payrolls.
  4. Upon requesting reimbursement from the Department of Commerce-CDBG funds, the county **MUST** show the amount **separately** (by separate check number) for labor and must be noted "<name of county/city/village/town> Reimbursement Force Account" per line item. Any materials purchased for the project **MUST** be shown separately. This information is required on the CDBG Disbursement Journal, Matching Funds Journal (if applicable) and the Cash Control Register. No CDBG funds will be release without accurate accounting of 'Force Account' labor.

## ATTACHMENT 19a: FORCE ACCOUNT AFFIDAVIT

If you are using Force Account for your project, your payroll clerk or Davis-Bacon contact must complete and sign the following affidavit. Keep one copy for your files and mail the original to your project representative at Commerce.

I hereby certify that the \_\_\_\_\_ is using Force Account  
(City/village/Town)

labor for \_\_\_\_\_  
(Description of work)

on the \_\_\_\_\_, \_\_\_\_\_  
(Project Name) (Contract Number)

No overtime payments will be made to Force Accounts out of CDBG funds.

Separate work hours must be kept and logged when working on CDBG work and nonregular municipality work.

All payrolls and records of payments must be kept in the Labor Standards Files under General Labor Standards.

Failure to submit this form prior to a draw request will force the regular Davis-Bacon Wage Rate that applies to the contract.

\_\_\_\_\_, \_\_\_\_\_  
(Signature of Payroll Clerk or Davis Bacon Contact) (Title)

\_\_\_\_\_  
(Phone Number) (Date)



**ATTACHMENT 20: LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS, LOANS,  
& COOPERATIVE AGREEMENTS**

If you are using Force Account for your project, your payroll clerk or Davis-Bacon contact must complete and sign the following affidavit. Keep one copy for your files and mail the original to your project representative at Commerce.

I hereby certify that the \_\_\_\_\_ is using Force Account  
(City/village/Town)

labor for \_\_\_\_\_  
(Description of work)

on the \_\_\_\_\_, \_\_\_\_\_  
(Project Name) (Contract Number)

No overtime payments will be made to Force Accounts out of CDBG funds.

Separate work hours must be kept and logged when working on CDBG work and nonregular municipality work.

All payrolls and records of payments must be kept in the Labor Standards Files under General Labor Standards.

Failure to submit this form prior to a draw request will force the regular Davis-Bacon Wage Rate that applies to the contract.

\_\_\_\_\_  
(Signature of Payroll Clerk or Davis Bacon Contact) (Title)

\_\_\_\_\_  
(Phone Number) (Date)

**ATTACHMENT 21: SEMIANNUAL LABOR STANDARDS  
ENFORCEMENT REPORT**

Grantee: \_\_\_\_\_ CDBG Contract #: \_\_\_\_\_

Period Covered:

From (month/year) \_\_\_\_\_ to (month/year) \_\_\_\_\_

(Report periods cover October 1 through March 31 and April 1 through September 30 and are **due to Commerce on or before April 7 and October 7.**)

1. Enter the total number of prime contracts, **awarded this six (6) month period**, subject to Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA). **Track contracts by award or start of construction – do not track by bid opening date. Note: Do not report contract(s) from previous period in 1 – 3.**(1) \_\_\_\_\_
2. Enter the total dollar amount of prime contracts reported in Item 1 above.  
(2) \_\_\_\_\_
3. List Employer/Project, Amounts, Wage Decision and Effective date (items 1 & 2):\*

	<u>Project Type(s)</u>	<u>Bidding Date</u>	<u>CDBG Related Contract Amount</u>	<u>Contract Award Date</u>	<u>Wage Decision &amp; Modifications</u>	<u>Wage Decision Effective Date</u>
<u>Employer</u>						

4. Enter the number of employers (contractors, subcontractors, lower-tier subcontractors) against whom complaints, investigations or §5.11 hearings were received during the reporting period (list the following information below):  
\*(4) \_\_\_\_\_

<u>Employer</u>	<u>Project</u>	<u>HUD or DOL</u>	<u>Investigations Or Hearings</u>
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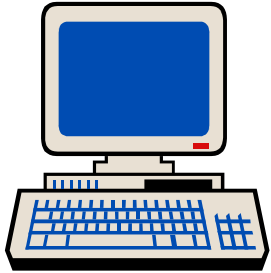
1. Enter the information relative to wage restitution that was **collected and/or disbursed during this six (6) month period**. This includes restitution disbursed by the grantee, restitution reported on certified payroll correction report and amounts collected but not disbursed because workers could not be found.
  - (a) Enter the total number of workers for whom wage restitution was collected and/or disbursed during this six (6) month period.  
(5a) \_\_\_\_\_
  - (b) Enter the total amount of wage restitution collected and/or disbursed during this six (6) month period.  
(5b) \_\_\_\_\_
  - (c) Enter the total amount of liquidated damages collected during this six month period for Contract Work Hours and Safety Standards Act overtime violations. (See *Attachment 9: Federal Labor Standards Provision (4010)*, B. (2) Violation; liability for unpaid wages; liquidated damages.)  
(5c) \_\_\_\_\_

Start of Construction Date: \_\_\_\_\_

Is construction completed? Yes \_\_\_\_\_ No \_\_\_\_\_ Date of Completion: \_\_\_\_\_

\*Use additional pages if necessary.

## ATTACHMENT 22: WEBSITE ADDRESSES



### TAKE A LOOK AT THESE WEBSITE ADDRESSES!!!

Department of Commerce Certified Minority Owned Business Firms:

[http://www.doa.state.wi.us/deo.mbe/minority\\_search.asp](http://www.doa.state.wi.us/deo.mbe/minority_search.asp)

City of Madison Targeted Business Enterprise Program:

<http://www.ci.madison.wi.us/affact/pubtoc.html>  
City of Madison Affirmative Action Department

Contact Darlene Moss at (608) 266-7998; Fax: (608) 266-8934  
Email Address: [darlene.moss@wisconsin.gov](mailto:darlene.moss@wisconsin.gov)